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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

MARTIN MARLANO BACA,

Plaintiff,

VS.

STATE OF MONTANA; YELLOWSTONE COUNTY; MRS. INGRID GUSTAFSON; MR. CARL G. DeBELLY, JR.; MS. PENELOPE STRONG; STAFF SARGENT PLUHAR; MS. ANNE MARIE MCKITTRICK; MS. KERI KNOWLTON; MR. JOHN C. BOYD; MR. CLINT ARDISEN; STAFF SARGENT RODRICK; and CORPORAL RHONEY #124,

Defendants.

) Cause No. CV 05-86-BLG-RWA

ORDER

On January 5, 2006, United States Magistrate Judge Richard W. Anderson entered his Findings and Recommendation. Magistrate Judge Anderson recommends that Plaintiff's Complaint be dismissed without prejudice.

Upon service of the Magistrate Judge's findings and recommendation, Plaintiff had twenty (20) days to file written objections. 28 U.S.C. § 636(b)(1). Additionally, this Court

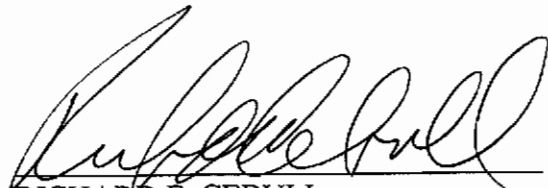
granted Plaintiff an extension of time until March 20, 2006 to file written objections. Plaintiff filed what appear to be objections in the form of a "Motion to Hold in Abeyance," on February 15, 2006. Plaintiff's objections are not well taken.

After a de novo review, the Court determines the Findings and Recommendation of Magistrate Judge Anderson are well grounded in law and fact and HEREBY ORDERS they be adopted in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Complaint (*Doc. #1*) is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim under the rule of *Preiser v. Rodriguez* and the docket should reflect that his filing of this action counts as one strike against him, pursuant to 29 U.S.C. § 1915(g), because he fails to state a claim on which relief may be granted.

The Clerk of Court shall notify the parties of the making of this Order and close this case accordingly.

DATED this 24 day of March, 2006.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE